

REMARKS

Claims 1-40 are pending. Claims 2 and 19 were objected to because of informalities. Claims 2 and 19 have been amended to correct informalities. Claims 1-40 including independent claims 1, 10, 18, 27, 30, and 33 were rejected under 35 U.S.C. 102(e) as being anticipated by Suan (USP 6,724,440). The independent claims 1, 10, 18, 27, 30, and 33 are believed allowable over Suan. Nonetheless, independent claims 1, 10, 18, 27, 30, and 33 have been amended to facilitate prosecution. Claims 1, 10, 18, and 33 have been amended to recite allowing an operating system to "report characteristics to an upstream device." Claims 27 and 30 have been amended to recite allowing an operating system "to account for power characteristics and drive the tuner to transmit at a desired power level."

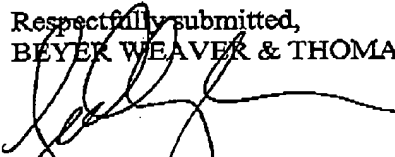
Suan describes a tuner for "receiving" a video broadcast. The tuner may be "implemented on a chassis of a receiver without modification." Suan only describes a tuner for "receiving" signals, such as in a "video satellite" receiver. No tuner for transmitting signals is taught or suggested. No power levels are adjusted to transmit signals and not data is sent upstream or reported to an any upstream device.

By contrast, independent claims 1, 10, 18, and 33 have been amended to recite allowing an operating system to "report power characteristics to an upstream device." This amendment is supported throughout the specification and in language associated with Figure 8. For example, "A cable modem operating system typically takes into account power characteristics such as saturation during upstream power reporting. At 5 dB, the actual output power level is close to the expected 35 dBmV power level at 803. However, at 10 dB, the actual output power level at 805 is substantially different than the expected power output of 50 dBmV at 807. As will be appreciated by one of skill in the art, a variety of power characteristics may be reported to a cable modem termination system. Some examples of power characteristics are amplifier power saturation, amplifier frequency rolloff, attenuation by power, and attenuation by frequency. A cable modem operating system can take into account power characteristics stored in a nonvolatile memory associated with the tuner to allow accurate reporting to a cable modem termination system." Suan does not teach or suggest reporting any characteristics to any cable modem termination system. Conventional Suan tuners do not have reporting capabilities.

Independent claims 27 and 30 have been amended to recite allowing an operating system "to account for power characteristics and drive the tuner to transmit at a desired power level." This amendment is also support throughout the specification and in description associated with Figure 8. For example, "Alternatively, the cable modem operating system can also use power characteristics to more efficiently and effectively reach a desired signal power level. For example, the cable modem can use rolloff characteristics to adjust the signal power level to more closely correspond with an expected signal power level. If the desired signal power level is 35 dBmV at 60 MHz, the cable modem tuner may be instructed to send a signal of 37 dBmV in order to actually transmit a desired signal power level of 35 dBmV." Suan does not teach or suggest accounting "for power characteristics" to drive "the tuner to transmit at a desired power level." In fact, Suan does not even teach or suggest a tuner that transmits. Furthermore, Suan does not describe transmitting at a desired power level.

In light of the above remarks above, all independent claims and associated dependent claims are believed allowable for at least the reasons noted above. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,
BEYER WEAVER & THOMAS, LLP



Godfrey K. Kwan
Reg. No. 46,850

P.O. Box 70250
Oakland, CA 94612-0250
(510) 663-1100